

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ALEXANDRIA EMON SHAREE  
GIBBS, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JULIE ANN GIBBS,

Respondent-Appellant.

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UNPUBLISHED  
September 16, 2003

No. 247173  
Ingham Circuit Court  
Family Division  
LC No. 00-366134-NA

Before: Sawyer, P.J., and Hoekstra and Murray, JJ.

PER CURIAM.

Respondent appeals as of right from the order of the trial court terminating her parental rights to her minor child pursuant to MCL 712A.19b(3)(c)(i). This case was previously before this Court, and the trial court's earlier order was reversed based on a jurisdictional defect. *In re AESG*, unpublished opinion per curiam of the Court of Appeals, issued October 18, 2002 (Docket No. 240056). On remand, the trial court took some additional evidence and then adopted its earlier opinion. We affirm in part, reverse in part and remand.

The trial court did not err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 5.974(I), now MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The record demonstrates that respondent continued to carry out a relationship with Gilbert White in violation of court order. Knowing that Mr. White had been violent with respondent numerous times in the past, and knowing that return of the child to her was contingent upon ending her contact with Mr. White, respondent nonetheless chose to continue the relationship and to conceal it from the trial court. Contrary to respondent's argument, the trial court did not err in considering this evidence or in giving it more weight than other evidence that showed some progress by respondent.

But respondent correctly notes that the trial court failed to consider on the record or make any written ruling on the question of the best interests of the child. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court is required to terminate the parental rights unless the trial court finds from evidence on the whole record that termination is clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court is required to state its

findings and conclusions regarding any best interests evidence either in writing or on the record. MCL 712A.19b(1); *Trejo*, *supra* at 356.

In this case, the trial court did not make any specific ruling regarding the best interests of the child. Initially, the trial court found that, although the statutory ground for termination had been demonstrated, termination was contrary to the best interests of the child and the matter was set for disposition. Many months later, after it was demonstrated that respondent was continuing her relationship with Mr. White, the trial court found that the conditions that led to adjudication continued to exist and terminated respondent's parental rights without further consideration of the best interests question. This issue was not raised by respondent during the first appeal to this Court and was not addressed by this Court. On remand, the trial court reentered its previous order and opinion without yet addressing the issue of the child's best interests. Though even a brief discussion of the issue may be sufficient depending upon the facts of a particular case, the trial court in this case failed to address the issue altogether. Given the total absence of a ruling on this issue, the trial court has run afoul of our Supreme Court's directive in *Trejo* that a trial court make findings and conclusions specifically on the issue of the best interests of the child. *Trejo*, *supra* at 356. We therefore reverse and remand for further proceedings consistent with this opinion.

Affirmed in part, reversed in part and remanded. We do not retain jurisdiction.

/s/ David H. Sawyer

/s/ Joel P. Hoekstra

/s/ Christopher M. Murray